

Executive Summary – Enforcement Matter – Case No. 41191
GULF COPPER & MANUFACTURING CORPORATION
RN100214840
Docket No. 2011-0284-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Gulf Copper Dry Dock and Rig Repair, located at Pelican Island adjacent to Galveston Channel and approximately 1.5 miles east of the Pelican Island Bridge, Galveston County

Type of Operation:

Fabrication and repair facility for inland and offshore vessels

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 5, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,426

Amount Deferred for Expedited Settlement: \$2,285

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,571

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$4,570

Name of SEP: Galveston Bay Foundation – “Marsh Mania”

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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GULF COPPER & MANUFACTURING CORPORATION
RN100214840
Docket No. 2011-0284-IWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 28, 2011

Date(s) of NOE(s): February 18, 2011

Violation Information

1. Failed to timely submit the monthly discharge monitoring reports (“DMRs”) by the 20th day of the following month. Specifically, the Respondent failed to timely submit DMRs for the months of March 2010, April 2010, May 2010, and July 2010 for Outfall 001; for the months of November 2009, December 2009, April 2010, June 2010, July 2010, August 2010, and September 2010 for Outfall 004; for the months of November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, and July 2010 for Outfall 005; for the months of October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, July 2010, August 2009, and September 2010 for Outfall 006; and for the months of October 2009, November 2009, and December 2009 for Outfall 007 [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0000779000, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d)].
2. Failed to timely submit complete monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to include the biochemical oxygen demand (5-day) (“BOD5”) daily maximum and the total suspended solids (“TSS”) daily maximum for the months of November 2009 and December 2009; the BOD5 daily average and daily maximum for the month of June 2010; the total chlorine residual monthly minimum and monthly maximum for the months of June 2010, August 2010, and September 2010; TSS daily maximum for the month of June 2010; and flow daily average and daily maximum for the months of August 2010 and September 2010 for Outfall 001. The Respondent failed to include the flow daily average and daily maximum for the months of October 2009, January 2010, February 2010, March 2010, and May 2010; pH minimum for the months of October 2009, February 2010, and March 2010; TSS daily average for the months of October 2009 and January 2010; TSS daily maximum for the months of February 2010 and March 2010; and TSS upstream and TSS net daily average and daily maximum for the months of January 2010, February 2010, March 2010, and May 2010 for Outfall 004. The Respondent also failed to include flow daily average and daily maximum for the months of October 2009, August 2010, and September 2010; pH minimum for the month of October 2009; and TSS daily average for the month of October 2009; and TSS upstream and TSS net daily average and daily maximum for the months of August 2010 and September 2010 for Outfall 005 [TPDES Permit No. WQ0000779000, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4].

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3. Failed to comply with permitted effluent limits for pH [TPDES Permit No. WQ0000779000, Effluent Limitations and Monitoring Requirements Nos. 1 and 4, for Outfalls 004 and 005, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:

- a. By March 1, 2010, properly calibrated the pH meter and returned to compliance with permitted limits;
- b. By March 22, 2011:
 - i. Updated the Facility's operational guidance and conducted employee training to ensure that all reporting and sampling procedures are properly accomplished;
 - ii. Submitted all missing DMRs; and
 - iii. Submitted revised DMRs to include all missing data.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: Stu Beckley, Enforcement Division, MC 219, (512) 239-3565

Respondent: Mike Haughton, Director of HS&E, GULF COPPER & MANUFACTURING CORPORATION, 2920 Todd Road, Galveston, Texas 77554

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0284-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	GULF COPPER & MANUFACTURING CORPORATION
Payable Penalty Amount:	Nine Thousand One Hundred Forty-One Dollars (\$9,141)
SEP Amount:	Four Thousand Five Hundred Seventy Dollars (\$4,570)
Type of SEP:	Pre-approved
Third-Party Recipient:	Galveston Bay Foundation-“Marsh Mania”
Location of SEP:	Harris and Galveston Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Galveston Bay Foundation to be used for the Galveston Bay Foundation “Marsh Mania” as set forth in the agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

GULF COPPER & MANUFACTURING CORPORATION
Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Mr. Bob Stokes, President
Galveston Bay Foundation
17330 Highway 3
Webster, Texas 77598

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

GULF COPPER & MANUFACTURING CORPORATION
Agreed Order – Attachment A

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Feb-2011	Screening	23-Feb-2011	EPA Due	
	PCW	24-Feb-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	GULF COPPER & MANUFACTURING CORPORATION		
Reg. Ent. Ref. No.	RN100214840		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41191	No. of Violations	3
Docket No.	2011-0284-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,800
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	107.0% Enhancement	Subtotals 2, 3, & 7	\$6,206
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Notes

Enhancement for one NOV with dissimilar violations and 21 months of self-reported effluent violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$580
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$122
Approx. Cost of Compliance \$2,200

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,426
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$11,426
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,426
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,285
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,141
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Screening Date 23-Feb-2011

Docket No. 2011-0284-IWD-E

PCW

Respondent GULF COPPER & MANUFACTURING CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 41191

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214840

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	21	105%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 107%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with dissimilar violations and 21 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 107%

Screening Date 23-Feb-2011

Docket No. 2011-0284-IWD-E

PCW

Respondent GULF COPPER & MANUFACTURING CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 41191

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214840

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number

1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000779000, Monitoring and Reporting Requirements No. 1 and 30 Tex. Admin. Code §§ 305.125(1) and 319.7(d)

Violation Description

Failed to timely submit the monthly discharge monitoring reports ("DMRs") by the 20th day of the following month. Specifically, the Respondent failed to timely submit DMRs for the months of March 2010, April 2010, May 2010, and July 2010 for Outfall 001; for the months of November 2009, December 2009, April 2010, June 2010, July 2010, August 2010, and September 2010 for Outfall 004; for the months of November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, and July 2010 for Outfall 005; for the months of October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, July 2010, August 2009, and September 2010 for Outfall 006; and for the months of October 2009, November 2009, and December 2009 for Outfall 007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 35

12 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$3,500

Thirty-five single events are recommended, one for each DMR.

Good Faith Efforts to Comply

10.0% Reduction

\$350

Extraordinary

Ordinary

N/A

Notes

Before NOV NOV to EDPRP/Settlement Offer

	X
	(mark with x)

The Respondent achieved compliance by March 22, 2011.

Violation Subtotal \$3,150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$84

Violation Final Penalty Total \$6,895

This violation Final Assessed Penalty (adjusted for limits) \$6,895

Economic Benefit Worksheet

Respondent GULF COPPER & MANUFACTURING CORPORATION
 Case ID No. 41191
 Reg. Ent. Reference No. RN100214840
 Media Water Quality
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$875	20-Sep-2009	22-Mar-2011	1.50	\$66	n/a	\$66
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	20-Sep-2009	22-Mar-2011	1.50	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to submit the missing DMRs (\$25 per DMR) and to update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished. Date required is the first date of non-compliance, final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,125

TOTAL

\$84

Screening Date 23-Feb-2011 **Docket No.** 2011-0284-IWD-E **PCW**
Respondent GULF COPPER & MANUFACTURING CORPORATION *Policy Revision 2 (September 2002)*
Case ID No. 41191 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100214840
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 2
Rule Cite(s)

TPDES Permit No. WQ0000779000, Monitoring and Reporting Requirements No. 1 and 30 Tex. Admin. Code §§ 305.125(1) and 319.4

Violation Description

Failed to submit complete monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to include the biochemical oxygen demand (5-day) ("BOD5") daily maximum and the total suspended solids ("TSS") daily maximum for the months of November 2009 and December 2009; the BOD5 daily average and daily maximum for the month of June 2010; the total chlorine residual monthly minimum and monthly maximum for the months of June 2010, August 2010, and September 2010; TSS daily maximum for the month of June 2010; and Flow daily average and daily maximum for the months of August 2010 and September 2010 for Outfall 001. The Respondent failed to include the flow daily average and daily maximum for the months of October 2009, January 2010, February 2010, March 2010, and May 2010; pH minimum for the months of October 2009, February 2010, and March 2010; TSS daily average for the months of October 2009 and January 2010; TSS daily maximum for the months of February 2010 and March 2010; and TSS Upstream and TSS Net daily average and daily maximum for the months of January 2010, February 2010, March 2010, and May 2010 for Outfall 004. The Respondent also failed to include flow daily average and daily maximum for the months of October 2009, August 2010, and September 2010; pH minimum for the month of October 2009; and TSS daily average for the month of October 2009; and TSS upstream and TSS net daily average and daily maximum for the months of August 2010 and September 2010 for Outfall 005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
				X	1%
More than 70% of the rule requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 13 10 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,300

Thirteen single events are recommended, one for each DMR with missing data.

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)
Notes	The Respondent achieved compliance by March 22, 2011.	

Violation Subtotal \$1,170

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$2,561

This violation Final Assessed Penalty (adjusted for limits) \$2,561

Economic Benefit Worksheet

Respondent GULF COPPER & MANUFACTURING CORPORATION
 Case ID No. 41191
 Reg. Ent. Reference No. RN100214840
 Media Water Quality
 Violation No. 2

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$325	20-Nov-2009	22-Mar-2011	1.33	\$22	n/a	\$22

Notes for DELAYED costs

Estimated cost to properly prepare and submit the revised DMRs (\$25 per DMR) to include all missing data. Date required is the first day of non-compliance, final date is the compliance date. The cost to update the Facility's guidance and conduct training is included in the economic benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$325

TOTAL

\$22

Screening Date 23-Feb-2011

Docket No. 2011-0284-IWD-E

PCW

Respondent GULF COPPER & MANUFACTURING CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 41191

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100214840

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0000779000, Effluent Limitations and Monitoring Requirements No. 4 for Outfalls 004 and 005, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix
Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

59 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$100

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance by March 22, 2011 for this violation.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$1,970

This violation Final Assessed Penalty (adjusted for limits) \$1,970

Economic Benefit Worksheet

Respondent GULF COPPER & MANUFACTURING CORPORATION
Case ID No. 41191
Reg. Ent. Reference No. RN100214840
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	31-Jan-2010	22-Mar-2011	1.14	\$14	n/a	\$14
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	31-Jan-2010	1-Mar-2010	0.08	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to properly calibrate the pH meter and provide training of how to collect samples and return to compliance with permitted limits. Date required is the first day of non-compliance, final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$16

GULF COPPER & MANUFACTURING CORPORATION
TPDES Permit No. WQ0000779000; RN100214840
Case No. 41191; Docket No. 2011-0284-IWD-E

<i>EFFLUENT PARAMETER</i>		
Permit Limit		
	pH Minimum Outfall 004	pH Maximum Outfall 004
<i>Month/Year</i>	6 su	9 su
January 2010	1.73	c
February 2010	c	9.1

su = standard units mg/L = milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator:	CN600330898	Gulf Copper & Manufacturing Corporation	Classification: Rating: 2.64 AVERAGE
Regulated Entity:	RN100214840	GULF COPPER DRY DOCK AND RIG REPAIR	Classification: Site Rating: 1.69 AVERAGE
ID Number(s):	WASTEWATER	PERMIT	WQ0000779000
	WASTEWATER	EPA ID	TX0005754
	AIR NEW SOURCE PERMITS	PERMIT	28319
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	GB0463V
	AIR NEW SOURCE PERMITS	AFS NUM	4816700125
	WASTEWATER LICENSING	LICENSE	WQ0000779000
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD008077372
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE	30986
		REGISTRATION # (SWR)	
	PETROLEUM STORAGE TANK	REGISTRATION	71610
	REGISTRATION		
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	GB0463V
Location:	Pelican Island adjacent to Galveston Channel and approximately 1.5 miles east of the Pelican Island Bridge in Galveston County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	February 22, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 22, 2006 to February 22, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Andrea Byington	Phone:	(512) 239-2545

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/07/2006	(485133)
2	06/12/2006	(498179)
3	06/12/2006	(498180)
4	09/01/2006	(520188)
5	02/16/2007	(534012)
6	10/16/2006	(544477)
7	10/16/2006	(544478)
8	11/27/2006	(544479)
9	10/16/2006	(544480)

10	10/19/2006	(544481)
11	10/16/2006	(544482)
12	11/27/2006	(544483)
13	10/16/2006	(544484)
14	12/05/2006	(544485)
15	10/16/2006	(544486)
16	10/16/2006	(544487)
17	06/06/2007	(558488)
18	06/20/2007	(565010)
19	08/06/2007	(569901)
20	02/28/2007	(575270)
21	03/23/2007	(575271)
22	04/30/2007	(575272)
23	05/21/2007	(575273)
24	06/20/2007	(575274)
25	07/19/2007	(575275)
26	02/02/2007	(575276)
27	02/02/2007	(575277)
28	08/20/2007	(601607)
29	09/20/2007	(601608)
30	10/19/2007	(601609)
31	11/17/2007	(619512)
32	12/20/2007	(619513)
33	01/19/2008	(619514)
34	06/19/2008	(654766)
35	02/19/2008	(672028)
36	03/19/2008	(672029)
37	04/18/2008	(672030)
38	05/20/2008	(689949)
39	06/20/2008	(689950)
40	05/28/2009	(745544)
41	08/25/2009	(767156)
42	03/24/2010	(804636)
43	03/24/2010	(830876)
44	03/31/2010	(830877)
45	07/23/2010	(846266)
46	07/22/2010	(860860)
47	12/02/2010	(879008)
48	12/01/2010	(879503)
49	02/18/2011	(893789)
50	01/11/2011	(896234)
51	01/11/2011	(896235)
52	01/11/2011	(896236)
53	01/11/2011	(896237)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/28/2006	(544478)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	03/31/2006	(544479)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	04/30/2006	(498179)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	05/31/2006	(498180)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	07/31/2006	(520188)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	08/31/2006	(544481)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	09/30/2006	(544483)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	10/31/2006	(544485)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	11/30/2006	(575276)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	12/31/2006	(575277)	CN600330898		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				

Date	02/28/2007	(575271)	CN600330898	
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	04/30/2007	(575273)	CN600330898	
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	05/31/2007	(575274)	CN600330898	
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	06/30/2007	(575275)	CN600330898	
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	07/31/2007	(601607)	CN600330898	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	09/30/2007	(601609)	CN600330898	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	11/30/2007	(619513)	CN600330898	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	01/31/2008	(672028)	CN600330898	
Self Report?	YES		Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			

Date	05/28/2009	(745544)	CN600330898	
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)			
Description:	Failure to conduct the fecal coliform and total suspended solids analyses within the required holding times.			

Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a) 30 TAC Chapter 319, SubChapter A 319.7(c)			
Description:	Failure to maintain a temperature log for the sample storage refrigerator.			

Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.6 30 TAC Chapter 319, SubChapter A 319.9(c)			
Description:	Failure to maintain a calibration log for the pH meter used for Outfalls 004 & 005.			

Date	10/31/2009	CN600330898	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date	01/31/2010	(804636)	CN600330898
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date	02/28/2010	(830876)	CN600330898
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GULF COPPER &
MANUFACTURING
CORPORATION
RN100214840**

**§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0284-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding GULF COPPER & MANUFACTURING CORPORATION ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a fabrication and repair facility for inland and offshore vessels located at Pelican Island adjacent to Galveston Channel and approximately 1.5 miles east of the Pelican Island Bridge in Galveston County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 23, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eleven Thousand Four Hundred Twenty-Six Dollars (\$11,426) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Five Hundred Seventy-One Dollars (\$4,571) of the administrative penalty and Two Thousand Two Hundred Eighty-Five Dollars (\$2,285) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Four Thousand Five Hundred Seventy Dollars (\$4,570) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. By March 1, 2010, properly calibrated the pH meter and returned to compliance with permitted limits;
 - b. By March 22, 2011:
 - i. Updated the Facility's operational guidance and conducted employee training to ensure that all reporting and sampling procedures are properly accomplished, in accordance with Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000779000, Monitoring and Reporting Requirements No. 1;
 - ii. Submitted all missing discharge monitoring reports ("DMRs"); and
 - iii. Submitted revised DMRs to include all missing data.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to timely submit the monthly DMRs by the 20th day of the following month, in violation of TPDES Permit No. WQ0000779000, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d), as documented during a record review conducted on January 28, 2011. Specifically, the Respondent failed to timely submit DMRs for the months of March 2010, April 2010, May 2010, and July 2010 for Outfall 001; for the months of November 2009, December 2009, April 2010, June 2010, July 2010, August 2010, and September 2010 for Outfall 004; for the months of November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, and July 2010 for Outfall 005; for the months of October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, July 2010, August 2009, and September 2010 for Outfall 006; and for the months of October 2009, November 2009, and December 2009 for Outfall 007.
2. Failed to timely submit complete monitoring results at the intervals specified in the permit, in violation of TPDES Permit No. WQ0000779000, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4, as documented during a record review conducted on January 28, 2011. Specifically, the Respondent failed to include the biochemical oxygen demand (5-day) ("BOD5") daily maximum and the total suspended solids ("TSS") daily maximum for the months of November 2009 and December 2009; the BOD5 daily average and daily maximum for the month of June 2010; the total chlorine residual monthly minimum and monthly maximum for the months of June 2010, August 2010, and September 2010; TSS daily maximum for the month of June 2010; and flow daily average and daily maximum for the months of August 2010 and September 2010 for Outfall 001. The Respondent failed to include the flow daily average and daily maximum for the months of October 2009, January 2010, February 2010, March 2010, and May 2010; pH minimum for the months of October 2009, February 2010, and March 2010; TSS daily average for the months of October 2009 and January 2010; TSS daily maximum for the months of February 2010 and March 2010; and TSS upstream and TSS net daily average and daily maximum for the months of January 2010, February 2010, March 2010, and May 2010 for Outfall 004. The Respondent also failed to include flow daily average and daily maximum for the months of October 2009, August 2010, and September 2010; pH minimum for the month of October 2009; and TSS daily average for the month of October 2009; and TSS upstream and TSS net daily average and daily maximum for the months of August 2010 and September 2010 for Outfall 005.
3. Failed to comply with permitted effluent limits, in violation of TPDES Permit No. WQ0000779000, Effluent Limitations and Monitoring Requirements Nos. 1 and 4, for Outfalls 004 and 005, 30 Tex. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on January 28, 2011 and shown in the table below:

EFFLUENT PARAMETER		
Permit Limit		
	pH Minimum Outfall 004	pH Maximum Outfall 004
Month/Year	6 su	9 su
January 2010	1.73	c
February 2010	c	9.1

su = standard units mg/L = milligrams per liter

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: GULF COPPER & MANUFACTURING CORPORATION, Docket No. 2011-0284-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

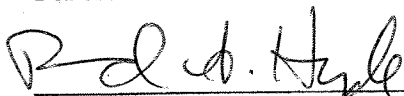
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Five Hundred Seventy Dollars (\$4,570) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/17/11

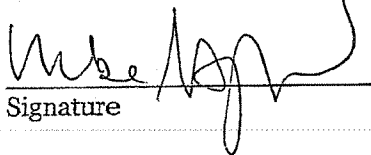
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

11/11/2011

Date

Mike Haughton

Name (Printed or typed)

Authorized Representative of

GULF COPPER & MANUFACTURING CORPORATION

Director of HSE

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2011-0284-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	GULF COPPER & MANUFACTURING CORPORATION
Payable Penalty Amount:	Nine Thousand One Hundred Forty-One Dollars (\$9,141)
SEP Amount:	Four Thousand Five Hundred Seventy Dollars (\$4,570)
Type of SEP:	Pre-approved
Third-Party Recipient:	Galveston Bay Foundation-“Marsh Mania”
Location of SEP:	Harris and Galveston Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Galveston Bay Foundation to be used for the Galveston Bay Foundation “Marsh Mania” as set forth in the agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

GULF COPPER & MANUFACTURING CORPORATION
Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Mr. Bob Stokes, President
Galveston Bay Foundation
17330 Highway 3
Webster, Texas 77598

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

GULF COPPER & MANUFACTURING CORPORATION
Agreed Order – Attachment A

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.